

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Scott K.,

Case No. 0:19-cv-02276-WMW-KMM

Plaintiff,

v.

REPORT AND RECOMMENDATION

Andrew Saul, Commissioner of Social
Security,

Defendant.

This action is an appeal from the Commissioner of Social Security's denial of Scott K.'s application for disability insurance benefits and supplemental security income benefits. This matter is before the Court on Scott K.'s Motion for Summary Judgment and the Commissioner's Motion for Remand. ECF Nos. 12 & 14. In his summary judgment motion, Mr. K requests that the Commissioner's decision be reversed and an Order entered requiring an award of benefits, or in the alternative, that the case be remanded to the Social Security Administration for further proceedings. ECF No. 12. The Commissioner also asks that the case be remanded to the Agency pursuant to Sentence 4 of 42 U.S.C. § 405(g) and *Melkonyan v. Sullivan*, 501 U.S. 89 (1991), so that the Agency may conduct further proceedings. ECF No. 14. The Commissioner's counsel represents that he discussed the motion for remand with counsel for Mr. K and "the parties agree on the motion for remand." ECF No. 16. Based on this Court's review of the parties' motions and the entire record in this proceeding, the Court concludes that remand to the Agency pursuant to Sentence 4 of Section 405(g) is appropriate.

Recommendations

Based on the foregoing, the Court makes the following recommendations.

1. The Commissioner's Motion for Remand [ECF No. 14] should be **GRANTED**;

2. Mr. K's Motion for Summary Judgment [ECF No. 12] should be **GRANTED IN PART** to the extent it seeks remand to the Agency for further proceedings.
3. This case should be remanded to the Social Security Administration for further proceedings pursuant to Sentence 4 of 42 U.S.C. § 405(g).

Date: February 19, 2020

s/Katherine Menendez
Katherine Menendez
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).

Under Advisement Date: This Report and Recommendation will be considered under advisement 14 days from the date of its filing. If timely objections are filed, this Report and Recommendation will be considered under advisement from the earlier of: (1) 14 days after the objections are filed; or (2) from the date a timely response is filed.